IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH NAGPUR

Criminal Application No. 1215/2007 in Cr. Appeal No.715/2004

Office Notes, Memoranda of Coram appearances, Court's orders or directions and Registrar's orders.	:	Court's or Judge's orders

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Coram : D. D. Sinha and
A.P.Lavande, JJ.
Dated : 27/4/2007

Heard Mr. Daga, learned counsel for the appellant and Mr. Jichkar, learned A.P.P. for the respondent.

Counsel for the appellant states that the present appellant Sunil Shyamlal Dip (original accused no.4) is convicted along with other co-accused by the trial Court for offence punishable under Section 302 read with Section 149 of the Indian Penal Code. It is submitted that other five co-accused those who are similarly circumstance and against whom the prosecution evidence is virtually identical are all released on bail by this Court vide orders dated 19/7/2005, 17/7/2006,

26/9/2006, 4/12/2006 as well as order dated 2/3/2007. Learned counsel for the appellant has contended that the present appellant is seeking bail on parity.

Mr. Daga, learned counsel further contended that so far as the prosecution case is concerned, it is mainly rests upon the testimony of eye witness PW 5 Shankar and so far as the evidence of this witness against the present appellant is concerned, it shows that general statement has been made by this witness that all the accused including the present appellant assaulted the deceased. However, this witness in his cross-examination stated for the first time before the Court that he was knowing all the accused prior to the incident. It is further contended that PW 5 Shankar has not stated anything in his evidence about holding of identification parade. It is further contended that so far as the present appellant is concerned, sword having blood stains was recovered. However, no blood was found on the clothes of the appellant. It is contended that since the other

co-accused who are released on bail particularly original accused no.5 Umesh against whom the prosecution evidence is identical to one which is against the present appellant and, therefore, the appellant may be released on bail.

Learned Additional Public Prosecutor does not dispute the factual aspect of the matter that the evidence against the present appellant and particularly against original accused no.5 Umesh is identical and accused Umesh is already released on bail.

In the backdrop of the above referred facts, the applicant has made out a case for grant of bail on parity with the other co-accused and, therefore, the present criminal application is disposed of with direction to the respondent to release the applicant on bail on furnishing P.R. bond of Rs. 10,000/- (Rs. Ten thousand) with one surety in the like amount.

Application stands disposed of.

JUDGE **JUDGE**

A.